

§ 147-69.2. Investments authorized for special funds held by State Treasurer.

(a) This section applies to funds held by the State Treasurer to the credit of each of the following:

- (1) The Teachers' and State Employees' Retirement System of North Carolina.
- (2) The Consolidated Judicial Retirement System of North Carolina.
- (3) The State Health Plan for Teachers and State Employees.
- (4) Repealed by Session Laws 2016-55, s. 1.3, effective January 31, 2017.
- (5) The Disability Salary Continuation Income Plan of North Carolina.
- (6) The North Carolina Firefighters' and Rescue Squad Workers' Pension Fund.
- (7) The North Carolina Local Governmental Employees' Retirement System.
- (8) The Legislative Retirement System of North Carolina.
- (9) The Escheat Fund.
- (10) The Legislative Retirement Fund.
- (11) The State Education Assistance Authority.
- (12) The State Property Fire Insurance Fund.
- (13) Repealed by Session Laws 2016-55, s. 1.3, effective January 31, 2017.
- (14) Repealed by Session Laws 2016-55, s. 1.3, effective January 31, 2017.
- (15) The Public School Insurance Fund.
- (16) The Liability Insurance Trust Fund.
- (16a) The University of North Carolina Hospitals at Chapel Hill funds, except appropriated funds, deposited with the State Treasurer pursuant to G.S. 116-37.2.
- (17) Trust funds of The University of North Carolina and its constituent institutions deposited with the State Treasurer pursuant to G.S. 116-36.1.
- (17a) North Carolina Veterans Home Trust Fund.
- (17b) North Carolina National Guard Pension Fund.
- (17c) Retiree Health Benefit Fund.
- (17d) The Election Fund.
- (17e) The North Carolina State Lottery Fund.
- (17f) Funds deposited with the State Treasurer by public hospitals pursuant to G.S. 159-39(g).
- (17g) Funds deposited with the State Treasurer by Local Government Other Post-Employment Benefits Trusts pursuant to G.S. 159-30.1.
- (17h) The Local Government Law Enforcement Special Separation Allowance Fund.
- (17i) The North Carolina Conservation Easement Endowment Fund.
- (17j) The Conservation Grant Fund.
- (17k) The Wildlife Endowment Fund.
- (17l) The Ecosystem Restoration Fund.
- (17m) The Needs-Based Public School Capital Fund.
- (18) Any other special fund created by or pursuant to law for purposes other than meeting appropriations made pursuant to the Executive Budget Act.
- (19) The Swain County Settlement Trust Fund.
- (20) Institutional funds of the colleges of the North Carolina Community College System.
- (21) The Disability Income Plan of North Carolina.

(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (a) of this section in excess of the amount required to meet the current needs and demands on these funds. The State Treasurer may invest the funds as provided in this subsection in the manner authorized by subsection (e) of this section. If an investment was authorized by

this subsection at the time the investment was made or contractually committed to be made, then that investment shall continue to be authorized by this subsection, and none of the percentage or other limitation on investments set forth in this subsection shall be construed to require the State Treasurer to subsequently dispose of the investment or fail to honor any contractual commitments as a result of changes in market values, ratings, or other investment qualifications. For purposes of computing market values on which percentage limitations on investments in this subsection are based, all investments shall be valued as of the last date of the most recent fiscal quarter. Notwithstanding anything in this section to the contrary, the State Treasurer shall categorize investment management arrangements according to the primary investment type or primary strategy utilized under the arrangement authorized under subsection (e) of this section. No investment management arrangement may be categorized in more than one of the subdivisions of this section. The State Treasurer shall select from among the following investments subject to the following limitations and requirements:

- (1) Investments authorized by G.S. 147-69.1(c)(1)-(7).
- (2) General obligations of other states of the United States.
- (3) General obligations of cities, counties and special districts in North Carolina.
- (4) Obligations of any company, other organization or legal entity incorporated or otherwise created or located within or outside the United States, including obligations that are convertible into equity securities, if, when acquired, the obligations are within one of the four highest rating categories regardless of gradations, such as ratings beginning with "AAA," "AA," "A," or either "BBB" or "Baa," of at least one nationally recognized rating service designated by the U.S. Securities and Exchange Commission.
- (5) Repealed by Session Laws 2001-444, s. 2, effective October 1, 2001.
- (6) Asset-backed securities (whether considered debt or equity), if, when acquired, the obligations are within one of the four highest ratings categories regardless of gradations, such as ratings beginning with "AAA," "AA," "A," or either "BBB" or "Baa," of at least one nationally recognized rating service designated by the U.S. Securities and Exchange Commission.
- (6a) In addition to the limitations and requirements with respect to the investments of the Retirement Systems set forth in this subsection, the State Treasurer shall select investments of the assets of the Retirement Systems such that investments made pursuant to subdivisions (b)(1) through (6) of this section shall at all times equal or exceed twenty percent (20%) of the market value of all invested assets of the Retirement Systems.
- (6b) Repealed by Session Laws 2016-55, s. 1.3, effective January 31, 2017.
- (6c) With respect to Retirement Systems' assets referred to in subdivision (b)(8), they may be invested, within or outside the United States, in obligations, debt securities, and asset-backed securities, whether considered debt or equity, including obligations and securities convertible into other securities, that do not meet the requirements of any of subdivisions (b)(1) through (6) of this section nor subdivision (b)(7) of this section. The amount invested under this subdivision shall not exceed seven and one-half percent (7.5%) of the market value of all invested assets of the Retirement Systems.
- (7) Retirement Systems' assets referred to in subdivision (8) of this subsection may be invested in strategies managed primarily for the purpose of owning real estate or related debt financing, excluding asset-backed financing and timberlands, located within or outside the United States. The amount invested under this subdivision shall not exceed ten percent (10%) of the market value of all invested assets of the Retirement Systems.

- (8) With respect to assets of the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the Firefighters' and Rescue Workers' Pension Fund, the Local Governmental Employees' Retirement System, the Legislative Retirement System, the North Carolina National Guard Pension Fund, the Registers of Deeds' Supplemental Pension Fund, and the Retiree Health Benefit Fund (hereinafter referred to collectively as the Retirement Systems), they may be invested in a strategy composed primarily of equity securities traded on a public securities exchange or market organized and regulated pursuant to the laws of the jurisdiction of the exchange or market and issued by any company incorporated or otherwise created or located within or outside the United States as long as the investments meet the conditions of this subdivision. The investments authorized for the Retirement Systems under this subdivision are subject to the following limitations:
 - a. Repealed by Session Laws 2016-55, s. 1.3, effective January 31, 2017.
 - a1. The aggregate amount of the investments cannot exceed sixty-five percent (65%) of the market value of all invested assets of the Retirement Systems.
 - b. The aggregate amount of the investment invested through investment companies described in sub-subdivision (e)(4)b. of this section shall not exceed eight and one-half percent (8.5%) of the market value of all invested assets of the Retirement Systems, except that the market value of group trusts and individual, common, or collective trust funds of banks and trust companies shall not be applied against this limit.
 - c. Repealed by Session Laws 2016-55, s. 1.3, effective January 31, 2017.
- (9) With respect to Retirement Systems' assets, as defined in subdivision (b)(8) of this subsection, they may be invested in (i) a strategy composed primarily of private equity, or corporate buyout transactions, within or outside the United States or (ii) an arrangement authorized under subsection (e) of this section with the primary purpose to engage in other strategies not expressly authorized by any other subdivision of this subsection. The amount invested under this subdivision shall not exceed eight and three-quarters percent (8.75%) of the market value of all invested assets of the Retirement Systems.
- (9a) With respect to Retirement Systems' assets, as defined in subdivision (b)(8) of this subsection, they may be invested, within or outside the United States, in obligations, debt securities, asset-backed securities, whether considered debt or equity, and other investments that are acquired by the Treasurer for the primary purpose of providing protection against risks associated with inflation, along with timberland, natural resources, commodities, infrastructure, transportation, agriculture, and other tangible and intangible real assets. The amount invested under this subdivision shall not exceed seven and one-half percent (7.5%) of the market value of all invested assets of the Retirement Systems.
- (10) Recodified as part of subdivision (b)(9) by Session Laws 2000-160, s. 2.
- (10a) With respect to Retirement Systems' assets, as defined in subdivision (8) of this subsection, the market value of any of subdivision (6c) or (7), sub-subdivision b. of subdivision (8), or subdivision (9) or (9a) of this subsection shall not exceed ten percent (10%) of the market value of all invested assets of the Retirement Systems; and the aggregate market value of all assets invested pursuant to subdivisions (6c) and (7), sub-subdivision b. of

subdivision (8), and subdivisions (9) and (9a) of this subsection shall not exceed thirty-five percent (35%) of the market value of all invested assets of the Retirement Systems.

(11) Repealed by Session Laws 2013-360, s. 6.3(c), effective July 1, 2013.

(12) It is the intent of the General Assembly that the Escheat Fund provide a perpetual and sustainable source of funding for the purposes authorized by the State Constitution. Accordingly, the following provisions apply:

a. With respect to assets of the Escheat Fund, in addition to those investments authorized by subdivisions (1) through (6) of this subsection, up to ten percent (10%) of the assets may be invested in the investments authorized under subdivisions (6c) through (9a) of this subsection, notwithstanding the percentage limitations imposed on the Retirement Systems' investments under those subdivisions, and provided that the State Treasurer may invest the assets as provided in subsection (e) of this section.

b. Repealed by Session Laws 2016-55, s. 1.3, effective January 31, 2017.

c. The State Treasurer shall invest, in addition to those investments authorized by sub-subdivision a. of this subdivision, ten percent (10%) of the net assets of the Escheat Fund as authorized under G.S. 147-69.2A.

(b1) The State Treasurer shall appoint an Investment Advisory Committee, which shall consist of seven members: the State Treasurer, who shall be chairman ex officio; two members selected from among the members of the boards of trustees of the Retirement Systems; and four members selected from the general public. All appointed members must have experience in areas relevant to the administration of a large, diversified investment program, including, but not limited to, investment management, securities law, real estate development, or absolute return strategies. The State Treasurer shall also appoint a Secretary of the Investment Advisory Committee who need not be a member of the committee. Members of the committee shall receive for their services the same per diem and allowances granted to members of the State boards and commissions generally. The committee shall have advisory powers only and membership shall not be deemed a public office within the meaning of Article VI, Section 9 of the Constitution of North Carolina or G.S. 128-1.1.

(b2) The State Treasurer may invest funds deposited pursuant to subdivision (a)(17f) of this section in any of the investments authorized under subdivisions (b)(1) through (6), subdivision (b)(6c), and subdivision (b)(8) of this section, notwithstanding the percentage limitations imposed on the Retirement Systems' investments therein. The State Treasurer may require a minimum deposit, up to one hundred thousand dollars (\$100,000), and may assess reasonable fees, not to exceed 15 basis points per annum, as a condition of participation pursuant to this subsection. Funds deposited pursuant to this subsection by a hospital shall remain the funds of that hospital, and interest or other investment income earned thereon shall be prorated and credited to the contributing hospital on the basis of the amounts thereof contributed, figured according to sound accounting principles. Fees assessed by the State Treasurer may be used to defray the cost of administering investments pursuant to this subsection and expenditures authorized under this section.

(b3) The State Treasurer may invest funds deposited pursuant to subdivision (a)(16a) of this section in any of the investments authorized under subdivisions (1) through (6), subdivision (6c) and subdivision (b)(8) of this section, notwithstanding the percentage limitations imposed on the Retirement Systems' investments therein. The State Treasurer may require a minimum deposit, up to one hundred thousand dollars (\$100,000), and may assess reasonable fees, not to exceed 15 basis points per annum, as a condition of participation pursuant to this subsection.

Funds deposited pursuant to this subsection by the University of North Carolina Hospitals at Chapel Hill shall remain the funds of the University of North Carolina Hospitals at Chapel Hill, and interest or other investment income earned thereon shall be prorated and credited to the University of North Carolina Hospitals at Chapel Hill on the basis of the amounts thereof contributed, figured according to sound accounting principles. Fees assessed by the State Treasurer may be used to defray the cost of administering investments pursuant to this subsection and expenditures authorized under this section.

(b4) In addition to the investments authorized under subdivisions (b)(1) through (6) of this section, the State Treasurer may invest funds deposited pursuant to subdivision (17g) of subsection (a) of this section in any of the investments authorized under subdivisions (b)(6c) and (b)(8) of this section, notwithstanding the percentage limitations imposed on the Retirement Systems' investments therein. Funds deposited pursuant to this subsection by a Local Government Other Post-Employment Benefits Trust and interest or other investment income earned from those funds shall be prorated and credited to the contributing trust on the basis of the amounts contributed, figured according to sound accounting principles. For investments under subdivisions (b)(6c) and (b)(8) of this section, the State Treasurer may require a minimum deposit of up to one hundred thousand dollars (\$100,000) and may assess reasonable fees of up to 15 basis points per annum as a condition of participation pursuant to this subsection. Fees assessed by the State Treasurer may be used to defray the costs of administering the Fund and expenditures authorized under this section.

(b5) In addition to the investments authorized under subdivisions (b)(1) through (6) of this section, the State Treasurer may invest funds deposited in the Local Government Law Enforcement Special Separation Allowance Fund in any of the investments authorized under subdivisions (b)(6c) and (b)(8) of this section, notwithstanding the percentage limitations imposed on the Retirement Systems' investments therein. For investments from that Fund made under subdivisions (b)(6c) and (b)(8) of this section, the State Treasurer may require a minimum deposit of up to one hundred thousand dollars (\$100,000) and may assess reasonable fees of up to 15 basis points per annum as a condition of making the investment. The fee may be used to defray the costs of administering the Fund and expenditures authorized under this section.

(c) Repealed by Session Laws 1995, c. 501, s. 2.

(d) The State Treasurer may invest funds deposited pursuant to subdivisions (17i), (17j), and (17k) of subsection (a) of this section in any of the investments authorized under subdivisions (1) through (6) and subdivision (8) of subsection (b) of this section. The State Treasurer may require a minimum deposit, up to one hundred thousand dollars (\$100,000), and may assess a reasonable fee, not to exceed 15 basis points, as a condition of participation pursuant to this subsection. Fees assessed by the State Treasurer may be used to defray the costs of administering the funds and expenditures authorized under this section. Funds deposited pursuant to this subsection shall remain the funds of the North Carolina Conservation Easement Endowment Fund, the Conservation Grant Fund, or the Wildlife Endowment Fund, as applicable, and interest or other investment income earned thereon shall be prorated and credited to the North Carolina Conservation Easement Endowment Fund, the Conservation Grant Fund, or the Wildlife Endowment Fund on the basis of the amounts contributed to the respective Funds, figured according to sound accounting principles.

(e) Investments made pursuant to this section may be made as internally managed investments by the State Treasurer or may be made through third-party investment management arrangements, under the following conditions:

- (1) Internally managed portfolios shall be subject to industry standard portfolio guidelines developed with periodic consultation by the Investment Advisory Committee.

- (2) In assessing whether to invest directly or to utilize indirect third-party investment management arrangements, the State Treasurer shall consider all material factors he or she considers relevant to the decision consistent with the Treasurer's fiduciary duties under G.S. 147-69.7, including financial, operational, and investment expertise and resources, alignment of interests and investor protections, transparency and repeatability of investment process, risk controls, and cost-effectiveness.
- (3) For any third-party investment management arrangements, the investment manager must have total assets under management of at least one hundred million dollars (\$100,000,000) at the inception of the investment management arrangement with the State Treasurer.
- (4) Third-party investment management arrangements may be with persons and legal entities located within or outside the United States, including through any of the following:
 - a. Contractual arrangements in which the investment manager has delegated discretion and authority to invest assets.
 - b. Investment companies as defined under United States generally accepted accounting principles as promulgated by the Financial Accounting Standards Board, including without limitation entities registered under the Investment Company Act of 1940; individual, common, or collective trust funds of banks and trust companies; limited partnerships; limited liability companies or other limited liability investment vehicles; and insurance contracts that provide for participation in individual or pooled separate accounts of insurance companies.
 Any limited liability investment vehicles organized by the State Treasurer shall be deemed investment companies for the purposes of this subsection.
- (5) Investment companies shall provide annual audited financial statements to the State Treasurer, unless the State Treasurer waives the requirement after conducting a cost-benefit analysis.
- (6) In connection with any investment otherwise authorized under this section, the State Treasurer may enter into an indemnification agreement provided that, under any agreement, the liability of the State Treasurer will be limited to the amount of the State Treasurer's contractual investment. (1979, c. 467, s. 2; 1983, c. 702, ss. 1-9; 1987, c. 446, s. 1; c. 751, s. 5; 1987 (Reg. Sess., 1988), c. 1070; 1989, c. 770, s. 54; 1989 (Reg. Sess., 1990), c. 813, s. 11; c. 848, s. 5; 1991, c. 542, s. 16; c. 636, s. 3; c. 749, s. 8; 1993 (Reg. Sess., 1994), c. 777, s. 4(i); 1995, c. 346, s. 2; c. 501, s. 2; 1997-456, s. 27; 1999-237, s. 27.16; 1999-251, s. 2; 2000-160, s. 2; 2001-444, ss. 2, 3; 2003-12, s. 2; 2004-124, s. 30.22(b); 2005-144, s. 7; 2005-201, s. 2; 2005-252, s. 1; 2005-276, s. 28.17; 2005-344, s. 10; 2005-417, s. 2; 2007-323, s. 27.7; 2007-384, ss. 2, 3, 7, 8; 2008-13, s. 2; 2008-107, ss. 12.9(b), (c), 12.13; 2009-98, s. 1; 2009-283, s. 2; 2009-451, s. 25.2(a); 2010-175, ss. 3, 4; 2011-145, ss. 6.10(a), 8.20(c); 2011-211, s. 1; 2011-340, s. 4(a), (b); 2012-130, s. 10; 2012-142, s. 6.4; 2012-178, s. 6; 2013-284, s. 1(d); 2013-360, s. 6.3(c); 2013-398, s. 1; 2015-164, s. 3(a); 2015-241, ss. 6.3(a), 14.2; 2016-55, s. 1.3; 2017-57, s. 13A.2(b), (c); 2017-102, s. 28.1(a); 2017-125, s. 6; 2018-5, ss. 5.3(e), 13.5.)